

EASTERN DISTRICT OF TEXAS

CIVIL ACTION NO. 1:06-CV-131

Respondent.

FED. R. CIV. P. 60(b) and (c).

Petitioner claims he is actually innocent of the charges against him, and the judgment should be vacated. Further, petitioner asserts that the facts need to be developed with an evidentiary hearing.

After careful consideration of petitioner's motion, the court is of the opinion that petitioner's motion was not presented in a reasonable time. Petitioner's motion was filed more than three (3) years after entry of the judgment and more than eighteen (18) months following the dismissal of his appeal. Further, petitioner's motion fails to set forth a meritorious ground warranting relief from the judgment. Petitioner's petition for writ of habeas corpus is barred by limitations, as previously determined. Accordingly, petitioner's motion to vacate judgment should be denied.

ORDER

For the reasons set forth above, petitioner's motion to vacate judgment should be denied. It is therefore,

ORDERED that petitioner's motion for relief from judgment is **DENIED**.

SIGNED at Beaumont, Texas, this 1st day of July, 2010.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE